Reg. No. B.G. 202.

The Mysore Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

PART IV—2-A

BANGALORE, THURSDAY, OCTOBER 14, 1965 (ASVIJA 22, SAKA ERA 1887). | No. 196

MYSORE LEGISLATIVE ASSEMBLY.

NOTIFICATION.

No. 10418—L.A., Bangalore, dated 14th October 1965.

Under Rule 64 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly, the Speaker has been pleased to order the publication in the *Mysore Gazette* of the **Mysore State Civil Service Class III Posts Recruitment (Validation) Bill, 1965** together with the Statement of Objects and Reasons relating thereto and the Bill and the Statement of Objects and Reasons are accordingly published for general information.

THE MYSORE STATE CIVIL SERVICES CLASS III POSTS RECRUITMENT (VALIDATION) BILL, 1965.

A Bill to provide for the validation of certain recruitments to the Mysore State Civil Services Class III Posts.

WHEREAS in certain judicial proceedings it has been held that recruitments to Class III Posts in the Mysore State Civil Services made by the State Level Recruitment Committees are invalid due to some defect in the constitution of the said Committees and the non-compliance with certain rules in making the selections by such Committees;

AND WHEREAS in certain judicial proceedings it has been held that recruitments to Class III Posts in the Mysore State Civil Services made before December 1962, by a Divisional Level Recruitment Committee are illegal on the ground that the rules made by the Governor had no retrospective effect and certain other recruitments made by the Divisional Recruitment Committees have been questioned in other judicial proceedings;

AND WHEREAS recruitments have been made by the State Level Recruitment Committees and the Divisional Level Recruitment Committees from the year 1961, and a large number of persons have been appointed in the State Government service in pursuance of such recruitments, and the discharge of persons selected by the said Committees who have been appointed as Government servants and the taking of action for making fresh recruitments to all these posts will entail huge expenditure and will cause considerable difficulty in the administration of several Departments;

AND WHEREAS it is necessary to take immediate steps to provide for the validation of the selections made by the State Level Recruitment Committees and the Divisional Level Recruitment Committees and appointments made in pursuance of such selections;

BE it enacted by the Mysore State Legislature in the Sixteenth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called th Mysore State Civil Services Class III Posts Recruitment (Validation) Act, 1965.

(2) It shall be deemed to have come into force on the 24th day of September 1965.

2. Validation of the constitution of and selections by the State Level Recruitment Committees and the Divisional Level Recruitment Committees.—(1) Notwithstanding anything contained in the Mysore State Civil Services Class III Posts Recruitment Committees (Constitution and Functions) Rules, 1962, or any other rules made under Article 309 of the Constitution or any law or in any judgment, decree or order of any court,—

(*a*) the body of persons who functioned as a State Level (Ministerial Posts) Recruitment Committee, or a State Level (Non-Ministerial Posts) Recruitment Committee, or a Divisional Level Recruitment Committee, shall be deemed for all purposes to have been the Recruitment Committee duly constituted in accordance with law ;

(*b*) the persons who sat or otherwise took part in the proceedings of any of the said Committees shall be deemed to have been entitled so to do as members of such Committee;

(*c*) every person who functioned as Chairman of any of the said Committees shall be deemed to have been the duly appointed Chairman of such Committee ;

(*d*) every person who functioned as the Secretary of any such Committee shall be deemed to have validly functioned on behalf of the Committee in calling for applications of candidates, making communications to the candidates and others on behalf of the Committee, authenticating or notifying the names of candidates selected by the Committee and in respect of all other matters relating to the functions of such Committee;

(*e*) the selection made by any of the said Committees to any class or category of posts and the lists of names of

candidates so selected and authenticated or notified by the Secretary of such Committee shall be and shall always be deemed to have been validly made, authenticated or notified, as the case may be;

(*f*) the appointments made of the candidates selected by any of the said Committees to any class or category of posts whether before or after the commencement of this Act shall be and shall always be deemed to have been validly made.

(2) Notwithstanding any judgment, decree or order of any court, the Mysore State Civil Services Class III Posts Recruitment Committees (Constitution and Functions) Rules, 1962, shall be deemed to have validly come into force on the 23rd October 1961, and accordingly any thing done or any action taken (including selections and appointments of candidates made) on or after the said date under the said rules shall, subject to the provisions of sub-section (1), be and shall always be deemed to have been validly done or taken in accordance with law.

(3) Any order of a court declaring the appointment of any persons made in pursuance of selection to any class or category of posts by any Committee referred to in sub-section (1) to be invalid on account of any defect in the constitution of such Committee or on the ground that any rule relating to the selection of the candidates was not complied with, or on the ground that the Mysore State Civil Services Class III Posts Recruitment Committees (Constitution and Functions) Rules, 1962, had no retrospective effect, shall be deemed to be and always to have been of no legal effect whatsoever and the selections and appointments made are hereby validated.

3. Court not to question validity of recruitment made on the ground of defect in the constitutions, etc.—No court shall question any selection made or any resolution, proceeding or thing adopted, taken or done by any committee referred to in sub-section (1) of section 2, or any appointment made by any authority in pursuance of such selection, merely on the

ground that the said committees had not been duly constituted or on the ground that any rule relating to the selection of the candidates was not complied with or on the ground that the Mysore State Civil Services Class III Posts Recruitment Committees (Constitution and Functions) Rules, 1962 had no retrospective effect.

4. Saving.—Notwithstanding anything contained in section 2, no person appointed to any post shall be entitled to the emoluments of such post during any period in which he did not perform the functions assigned to the person holding such post.

5. Repeal.—The Mysore State Civil Services Class III Posts Recruitment (Validation) Ordinance, 1965 (Mysore Ordinance No. 2 of 1965), is hereby repealed.

Statement of Objects and Reasons

Since the year 1961, recruitment to certain Class III posts in the Mysore State Civil Services is being done by the State Level Recruitment Committees and Divisional Level Recruitment Committees in accordance with the Mysore State Civil Services Class III Posts Recruitment Committees (Constitution and Functions) Rules, 1962 which have come into force with effect from 23rd October 1961. Some of the recruitments made by State Level Recruitment Committees and a Divisional Level Recruitment Committee have been held illegal in certain judicial proceedings on one or other of the following grounds, namely :—

(1) constitution of committees is defective;

(2) selections have not been made by the committees in compliance with the rules;

(3) rules made by the Governor for constitution of these committees cannot have retrospective effect.

As a large number of persons have been appointed to the State Government services since 1961 under these rules, and the discharge of persons selected and the taking of action for making fresh recruitment to these posts whose number runs into thousands will entail huge expenditure besides causing difficulty in the administration of the Departments, it became necessary to validate these recruitments by undertaking legislation. As the matter could not brooke delay and the Houses of Legislature were not in session, Mysore Ordinance No. 2 of 1965 was promulgated. This Bill is intended to repeal and replace the Ordinance.

S. NIJALINGAPPA.

T. HANUMANTHAPPA,
Secretary.

Statement under sub-rule (I) of rule 70 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly regarding promulgation of the Mysore State Civil Services Class III Posts Recruitment (Validation) Ordinance 1965.

Consequent upon certain judicial proceedings in which recruitment to Class III posts in the Mysore State Civil Services made by the State Level Recruitment Committees and a Divisional Level Recruitment Committee were held to be invalid, it became necessary to undertake immediate legislation to validate such recruitments to avoid difficulties in the administration of several Departments. As the Houses of Legislaure were not in session, the Ordinance was promulgated to vtlidate the recruitments.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore